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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/520,178

01/05/2005

Onifares Elpidio Squadroni

2507-1061

7683

466 7590 05/25/2007
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EXAMINER

PATTERSON, MARIE D

ART UNIT

PAPER NUMBER

3728

MAIL DATE

DELIVERY MODE

05/25/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/520,178

Applicant(s)

SQUADRONI, ONIFARES ELPIDIO

Examiner

Marie Patterson

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/5/05</u> . | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 112

1. Claims 5-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 5 the phrase “chambers, igloos, protrusions, or the like” and in claim 8 the phrase “such as rubber or the like” are vague and indefinite.

In claim 5 the phrase “a plurality of check valves...” is confusing, vague, and indefinite because it is not clear if applicant is referring to the valves previously recites in claim 1 (from which this claim depends) or if these are new additional valves.

In claim 11 the phrases “the small channel” lacks antecedent basis rendering the claim vague and indefinite. Also, claim 11 in its entirety is confusing, vague, and indefinite and it is not clear what structural limitations applicant intends to encompass with such language.

Claims 12 and 13 in their entirety are confusing, unclear, indefinite, and not understood, it is not clear what structural limitations applicant intends to encompass with such language..

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 5-8, 11, 12, and 13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Sijpkens te Delft (NL 1007606).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moretti (2001/0003875) in view of Squadroni (6282813).

Moretti shows a shoe comprising a shoe sole with side valves (211), domes (216), channel (shown in figure 6), and a perforated memberane (215) substantially as claimed except for the exact side valves. Squadroni teaches forming a valve as one piece curved portions (see figures 4-8). It would have been obvious to make the valves in Moretti as taught by Squadroni to reduce cost and time in manufacture.

6. Claims 2, and 5-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1, 3, and 4 above, and further in view of Squadroni (6209226).

Moretti as modified above shows a shoe substantially as claimed except for the exact protrusions. Squadroni '226 teaches forming the ventilative protrusions as hollow igloos (see figures 2-8). It would have been obvious to form the protrusions as hollow igloos as taught by Squadroni in the shoe of Moretti as modified above to increase ventilation and cushioning.

In reference to claims 8 and 9, Moretti as modified above discloses the claimed invention except for the exact materials. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use rubber, polyurethane, etc., since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

In reference to claim 10, Moretti shows a horizontal surface that is capable of attachment to an upper inasmuch as applicant has claimed and defined such.

1. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). Other useful information can be obtained at the PTO Home Page at www.uspto.gov.

In order to avoid potential delays, Technology Center 3700 is encouraging FAXing of responses to Office Actions directly into the Center at (571)273-8300 **(FORMAL FAXES ONLY)**. Please identify Examiner Marie Patterson of Art Unit 3728 at the top of your cover sheet.

Any inquiry concerning the MERITS of this examination from the examiner should be directed to Marie Patterson whose telephone number is (571) 272-4559. The examiner can normally be reached from 6AM - 4PM Mon-Wed.


Marie Patterson
Primary Examiner
Art Unit 3728